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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,478	03/23/2001	Donna B. Dulong	G&C 136.13-US-U1	5342

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EXAMINER	
GILLIGAN, CHRISTOPHER L	
ART UNIT	**PAPER NUMBER**
3626	

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/815,478	DULONG ET AL.	
	Examiner	Art Unit	
	Luke Gilligan	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-51* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/20/01*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. In the amendment filed 10/17/05, the following has occurred: claims 1, 18, and 35 have been amended. Now, claims 1-51 are presented for examination.

Claim Rejections - 35 USC § 103

2 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akers et al., U.S. Patent No. 6,112,182 in view of Brook et al., U.S. Patent No. 6,170,746 and further in view of Engelson et al., U.S. Patent No. 6,671,563.

4. As per claim 1, Akers teaches a computer programmed method for providing medication administration comments comprising: accepting a patient identification for a patient from a medication administrator (see column 4, lines 33-39); displaying a graphical user interface listing one or more mediations scheduled for administration to the patient (see column 3, lines 29-35 and column 4, lines 33-39); accepting the selection of one of the listed medications (see column 4, lines 39-48); determining if a condition for a compliance rule has been satisfied, wherein the compliance rule relates to the selected medication and has an associated comment (see column 4, lines 49 – column 5, line 1, the Examiner is interpreting the detection of a trigger event to be a form of condition for a compliance rule); and displaying, on a displaying device, the comment associated with the compliance rule when the condition has been satisfied (see column 5, lines 47-58, displayed patient care actions are interpreted to be a form of the recited comment).

5. Akers does not explicitly teach accepting a medication administrator identification for a medication administrator. Brook teaches a drug tracking system that can be used in pharmacies (see abstract) and includes the feature of accepting a medication administrator identification for a medication administrator (see column 11, lines 23-26, in both Akers and Brook, the Examiner is interpreting the pharmacist to be a form of medication administrator). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this security feature into the system of Akers. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of ensuring that only authorized personnel are providing healthcare related services to patients (see column 2, lines 19-24 of Akers).

6. In addition, although the system of Brook is described in a hospital setting, neither Akers nor Brook explicitly teach displaying the comment at the bedside of the patient in a hospital setting. However, Engelson teaches a system and method for managing patient data in a hospital setting in which a variety of patient data can be displayed at the bedside of a patient (see column 6, lines 24-35). Since the bedside CPU of Engelson is intended to be connected to and retrieve information from a pharmacy information system, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the features of the bedside CPU into the system of Akers and Brooks. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of enhancing reliable and cost-efficient delivery of health care to patients as suggested by Engelson (see column 2, lines 22-27).

7. As per claim 2, Akers in view of Brook and Engelson teach the method of claim 1 as described above. Akers further teaches the conditions is satisfied when a generic name for a medication matches the selected medication (see column 6, lines 32-36).

8. As per claim 3, Akers in view of Brook and Engelson teach the method of claim 1 as described above. Akers further teaches the condition is satisfied when a brand name for a medication matches the selected medication (see column 6, lines 32-36).

9. As per claim 6, Akers in view of Brook and Engelson teach the method of claim 1 as described above. Akers further teaches the comment indicates additional verification of an aspect of the medication should be performed (see column 1, line 60 – column 2, line 11, in particular, the Examiner notes that insurance claims processing involves additional verification of an aspect of prescribed medications).

10. As per claim 16, Akers in view of Brook and Engelson teach the method of claim 1 as described above. Akers further teaches the comment indicates that certain tests should be performed (see column 6, lines 32-41).

11. As per claim 17, Akers in view of Brook and Engelson teach the method of claim 1 as described above. Akers further teaches the comment provides background information relating to the medication (see column 1, line 60 – column 2, line 8).

12. Claims 4-5 and 7-15 recite various additional types of comments that can be displayed on the display device. Although Akers teaches displaying comments (patient care actions) when a condition for a compliance rule (trigger) has been satisfied, the reference does not explicitly disclose the particular comments recited claims 4-5 and 7-15. However these differences are only found in the non-functional data defining the comment displayed on the display device. Data identifying the type of comment displayed is not functionally related to the steps recited in the claim. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see Cf. In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Furthermore, in addition to the types of comments that are disclosed by Akers, as

described above, the various types of comments identified in claims 4-5 and 7-15 are all old and well known in the art of medication administration.

13. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display any data on the display device as shown in Akers because such data does not functionally relate to the steps recited in the claim and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. *See In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

14. Claims 18-34 recite substantially similar system limitations as method claims 1-17. Akers further teaches a computer having a memory and a processor and a program executing on said computer (see column 2, line 65 – column 3, line 17). Therefore, these claims are rejected for similar reasons as given above.

15. Claims 35-51 recite substantially similar article of manufacture limitations as method claims 1-17. Akers further teaches a computer having a memory and a processor and a program executing on said computer (see column 2, line 65 – column 3, line 17). Therefore, these claims are rejected for similar reasons as given above.

Response to Arguments

16. In the remarks filed 10/17/05, Applicants argue in substance that neither Akers nor Brook teach displaying comments at the bedside of the patient in a hospital setting as now recited in independent claims 1, 18, and 35.

17. Applicants' arguments have been fully considered but are now moot in view of the new grounds of rejection detailed above. In particular, the Examiner has now relied upon the teaches of Engelson in combination with Akers and Brook for the teaching of displaying patient information at the bedside of a patient in a hospital setting.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLG
1/20/06

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER